

Notice of Allowability

Application No.

09/281,813

Examiner

Dung X Nguyen

Applicant(s)

PALM, STEPHEN

Art Unit

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 15 November 2004.
2. ☒ The allowed claim(s) is/are 2, 4, 5, 9, 10, 42, and 43, renumbered as 1 - 7, respectively.
3. ☒ The drawings filed on 31 March 1999 and 18 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>10/15/04, 8/18/04</u> . | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input checked="" type="checkbox"/> Other <u>See Continuation Sheet</u> . |

DXN

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Steve Weigman, that applicant's attorney, on November 09, 2004.

IN THE ABSTRACT:

In the Abstract, page # 98 of the Specification, "a" recited on line 2 has been changed to "an", "plurality of" recited on line 2 have been deleted, and "devices" recited on line 2 has been changed to "device".

Response to Arguments

2. Applicant's arguments filed on September 15, 2004 have been fully considered and are persuasive. Claims 1, 3, 6 – 8, and 11 – 41 have been canceled.

Allowable Subject Matter

3. **Claims 2, 4, 5, 9, 10, 42, and 43 are allowed, renumbered as 1 – 7, respectively.** The following is an examiner's statement of reasons for allowance:

Regarding to the claimed invention, the prior art of record fails to show or render obvious of an apparatus and its corresponding method for establishing a communication link, comprising:

A negotiation data transmitter section, associated with an initiating communication device, that transmits at least one carrier including a first negotiation information bits representing a first list of xDSL capabilities to a responding communication device;

A negotiation data receiver, associated with the initiating communication device, that receives at least one carrier including second negotiation information bits representing a second list of xDSL capabilities of the responding communication device;

A selecting device selects an xDSL modulation transmission protocol common to the first list of xDSL modulation transmission protocol capabilities and the second list of xDSL modulation transmission protocol capabilities in accordance with the responding device to establish a communication channel, wherein the transmitted carrier contains data related to a usable frequency spectrum carrier allocation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung X. Nguyen whose telephone number is (571) 272-3010. The examiner can normally be reached on Monday through Friday from 8:00 AM to 17:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Ghayour Mohammad H. can be reached on (571) 272-3021. The fax phone numbers for this group is (571) 273-3021.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

DXN

November 12, 2004


MOHAMMED GHAYOUR
SUPERVISORY PATENT EXAMINER